

STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

IN THE MATTER CONCERNING
JUDGE STEPHEN E. BENSON

DECISION AND ORDER IMPOSING
PUBLIC ADMONISHMENT

This disciplinary matter concerns Judge Stephen E. Benson, a judge of the Butte County Superior Court since January 2001. Judge Benson was elected to office in 2000 in a contested election that is the subject of this decision, and began his current term in January 2001. Judge Benson and his attorney, James A. Murphy, Esq., appeared before the commission on October 17, 2006, pursuant to rule 116 of the Rules of the Commission on Judicial Performance, to contest the imposition of a proposed public admonishment. The judge did not submit any substantive written objections or argument against the proposed discipline. Having considered the oral objections and argument presented by Judge Benson and his counsel during the appearance, and good cause appearing, the Commission on Judicial Performance issues this public admonishment pursuant to article VI, section 18, subdivision (d), of the California Constitution, based upon the Statement of Facts and Reasons that follows.

STATEMENT OF FACTS AND REASONS

This public admonishment is based on violations of the Political Reform Act (the “Act”)¹ by then-attorney Stephen E. Benson (hereafter Judge Benson) when he was a candidate for the Butte County Superior Court in 2000. The Act requires candidates to deposit all contributions and loans to a campaign into a separate bank account designated for the campaign committee (Gov. Code § 85201), and to disclose the source and amount of contributions or loans of \$100 or more on campaign statements for the reporting period in which the loan or contribution was received (Gov. Code §§ 84211, 84216, 84216.5).

In September 2005, the Fair Political Practices Commission (FPPC) charged Judge Benson with four violations of the Act that occurred during his campaign for judicial office in 2000. The charges were based on information received during a routine tax audit of Judge Benson’s campaign committee. The audit disclosed that on or about September 21, 2000, Judge Benson deposited a \$71,000 loan he received from his father, Helmer G. Benson, into the judge’s personal bank account. The judge later dispersed the loan in increments of \$60,000 and \$11,000 into his campaign account, listing himself as the source on each occasion. The FPPC charges were as follows:

I. Judge Benson received a \$71,000 contribution to his judicial campaign in the form of a loan from his father, Helmer G. Benson. On or about September 21, 2000, Judge Benson deposited the loan from his father into his personal bank account and failed to disclose the loan on required campaign statements. When Judge Benson later deposited funds from the loan into his

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014.

campaign account, he reported himself rather than his father as the source of the loan in violation of the Act. (Gov. Code § 85201 (c).)

II. In a pre-election campaign statement filed on or about October 5, 2000, for the reporting period July 1, 2000 through September 30, 2000, Judge Benson failed to disclose the \$71,000 campaign loan from his father in violation of the Act. (Gov. Code §§ 84211 (f) and 84216 (c).)²

III. In a pre-election campaign statement filed on or about October 25, 2000, for the reporting period October 1, 2000 through October 21, 2000, Judge Benson disclosed himself rather than his father as the source of the loan and improperly reported the amount of the loan as \$60,000 in violation of the Act. (Gov. Code §§ 84211 (f) and 84216 (e).)

IV. In a semi-annual campaign statement filed on or about January 31, 2001, for the reporting period October 22, 2000 through December 31, 2000, Judge Benson disclosed himself rather than his father as the source of the loan and improperly reported the amount of the loan as \$21,000 in violation of the Act. (Gov. Code § 84211(g).)

On September 21, 2005, Judge Benson signed a stipulation for consideration by the FPPC in which he admitted each of the above-mentioned violations. On October 13, 2005, the FPPC approved the stipulation, and entered a decision and order finding each of the above-mentioned allegations to be true and imposing a penalty of \$7,000 on Judge Benson. The decision by the FPPC to impose less than the maximum penalty (\$11,000) was based, in part, on its finding that Judge Benson

² These and subsequent citations to Government Code sections refer to the code sections as they existed in 2000; certain subdivisions were revised and re-lettered in January 2001.

was not trying to conceal that his father was a contributor to his campaign, as the judge had disclosed his father as the source of a previous loan during the campaign. The stipulation, decision and order subsequently were referred by the FPPC to the Commission on Judicial Performance in October 2005.

During his appearance before the commission to contest the proposed discipline, Judge Benson repeatedly stated he did not dispute any of the factual allegations concerning his violations of the Act. He was asked twice by a commission member why he had disclosed a smaller loan from his father during the primary election, yet failed to disclose the \$71,000 loan from his father during the general election. Judge Benson stated he was not trying to hide the fact his father had loaned him money, but he could not explain his failure to disclose the large loan. According to the judge, “It was a simple detail that just didn’t even occur to me as – I can’t tell you why.”

An express purpose of the Political Reform Act, as set forth in Government Code section 81002, subdivision (a), is to ensure that “[r]eceipts and expenditures in election campaigns [] be fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited.” Judge Benson undermined this basic purpose of the Act by failing to disclose that his father in large part financed his campaign. The father’s \$71,000 loan represented over 40 percent of the total contributions received by Judge Benson during the reporting period. Judge Benson’s failure to obey the requirements of the Act also constitute violations of canon 3B(2) which requires a judge to “be faithful to the law,” and canon 2A which requires a judge to comply with the law and to act at all times in a manner that promotes public confidence in the integrity of the judiciary. At a minimum, the judge’s misconduct constitutes improper action within the meaning of article VI, section 18, subdivision (d), of the California Constitution.

Commission members Mr. Marshall B. Grossman, Judge Frederick P. Horn, Mrs. Crystal Lui, Justice Judith D. McConnell, Mr. Jose C. Miramontes, Mrs. Penny Perez, Judge Risë Jones Pichon, Ms. Barbara Schraeger and Mr. Lawrence Simi voted for a public admonishment. Commission members Mr. Michael A. Kahn and Ms. Patricia Miller did not participate.

Dated: November 15, 2006

/s/

Marshall B. Grossman

Chairperson